

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) ROBERT GATES,
(2) RITA GATES, and
(3) JULIO MELENDEZ,

Plaintiffs,

v.

(1) CITY OF TULSA, OKLAHOMA,
(2) SAMANTHA RAMSEY,
(3) DON HOLLOWAY,
(4) M. SWEGER,
(5) THOMAS SHOCKLEY,
(6) K. SIRES,

Defendants.

Case No.: 23-CV-352-CVE-SH

Judge Claire V. Egan

**PLAINTIFFS' UNOPPOSED MOTION TO EXTEND ALL
REMAINING SCHEDULING DEADLINES BY 90 DAYS**

COME NOW, the Plaintiffs, by and through their attorneys of record, and respectfully request an Order extending all remaining Scheduling Order (Dkt. #17) deadlines by ninety (90) days. In support, Plaintiffs show the Court as follows:

1. The Court entered a Scheduling Order in this matter on October 19, 2023. [Dkt. #17]
2. The current deadline for Plaintiffs to make their expert disclosures is June 5, 2024 and the current discovery cutoff is July 17, 2024. *Id.*
3. The parties are currently engaged in discovery. Due to Plaintiffs' counsel's trial schedule as well as the recent unexpected death of Plaintiff Rita Gates, Plaintiffs require additional time to complete necessary written discovery and depositions.
4. On May 12, 2024, which happened to be Mother's Day, Mrs. Gates tragically and suddenly suffered a heart attack and died. This unfortunate loss will require Plaintiffs'

Counsel to file a probate action and substitute the estate as a party. To do so requires time to acquire the necessary documents required for the initial filing, the initial accounting of the estate, the identification of debtors, and the opening of required accounts with financial institutions. Additionally, Mr. Gates and Mr. Melendez are naturally still grieving the loss of Mrs. Gates.

5. Further, Plaintiffs' counsel's recent – and upcoming – trial schedule has hindered Plaintiffs' counsel's ability to schedule and complete necessary depositions.
6. For instance, Plaintiff's counsel conducted a two-week jury trial in *Pendleton v. United Services Automobile Association*, CJ-18-1648 (Tulsa County District Court) from February 5-15, 2024. This trial required extensive preparation.
7. Plaintiff's counsel was then scheduled to begin another jury trial, *Millaway v. Dolton, et al.*, CJ-21-1128 (Tulsa County District Court) on March 6, 2024. The *Millaway* trial was rescheduled just a few days before it was set to commence due to an illness to defense counsel.
8. Plaintiff's counsel then began preparing for a jury trial in another civil rights case, *Hoepfner v. Head*, 20-CV-299-EFM (E.D. Okla.) that was set to begin on April 15, 2024. The *Hoepfner* case settled on April 12, the Friday before trial was to start.
9. Plaintiff's counsel then conducted another jury trial from April 23-25, 2024 in *Weigant v. Whitebook, et al.*, CJ-21-1523 (Tulsa County District Court). After the *Weigant* trial concluded, Plaintiff's counsel immediately began preparing for the *Millaway* trial, which was rescheduled for May 6, 2024. Plaintiff's counsel conducted the *Millaway* trial from May 6-10.
10. Additionally, Plaintiff's counsel has a jury trial in another civil rights case, *Brooks v. Comfort*, 21-CV-142-GKF-JFJ (N.D. Okla.) that begins on July 15, 2024.

11. Plaintiffs’ counsel thus asserts that a ninety (90) day extension of all Scheduling Order deadlines will ensure that the necessary written discovery and depositions are completed, a probate action can be completed for Mrs. Gates, and the Administrator of Mrs. Gates’ Estate can be substituted for her as a named Plaintiff in this action.
12. This is the first request to amend the Scheduling Order. The relief requested is made in good faith and not for the purpose of delay.
13. The undersigned is authorized to report that Defendants **do not oppose** this Motion or the relief sought herein.
14. A scheduling order may be modified “for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). District courts are the masters of their own calendars, and thus enjoy “broad discretion” in reviewing motions for continuance and determining deadlines for pretrial and trial activities. *Morris v. Slappy*, 461 U.S. 1, 11 (1983); *Phillips v. Ferguson*, 182 F.3d 769, 775 (10th Cir. 1999).
15. Under the circumstances, as set forth *supra*, Plaintiffs believe, and urge the Court to find, that there is “good cause” to modify the Scheduling Order [Dkt #17] and enter a First Amended Scheduling Order. Should the Court grant this Motion, the First Amended Scheduling Order would be as follows:

No.	Activity	Current	Proposed
3.	Expert Identification and Reports under FRCP 26(a)(2) (Plaintiff)	6/5/24	9/3/24
4.	Expert Identification and Reports under FRCP 26(a)(2) (Defendant)	6/20/24	9/18/24
5.	Discovery Cutoff	7/17/24	10/15/24
6.	Exchange of Preliminary Witness Lists and Proposed Exhibits	7/24/24	10/22/24
7.	Dispositive Motions Cutoff	8/16/24	11/14/24
9.	Motions in Limine Cutoff	9/30/24	12/29/24
10.	Deposition/Videotaped/Interrogatory Designations	8/26/24	11/24/24

11.	Counter-Designations	9/9/24	12/8/24
12.	Exchange of Pre-Marked Exhibits	9/17/24	12/16/24
13.	Pretrial Disclosure	9/17/24	12/16/24
14.	Objections to Designations	9/23/24	12/22/24
15.	Transcripts Annotated with Objections	9/23/24	12/22/24
16.	Agreed Proposed Pretrial Order	11/12/24	2/9/25
17.	Final Witness and Exhibit List	11/12/24	2/9/25
18.	Pretrial Conference	12/4/2024	To be reset by Court
19.	Requested Jury Instructions, Trial Briefs, and Voir Dire	12/9/24	03/09/25
21.	Exchange of Demonstrative Exhibits	12/9/24	03/09/25
22.	Trial Date	12/16/24	To be reset by Court

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order extending all remaining deadlines in the Scheduling Order [Dkt. #17] by ninety (90) days.

Respectfully submitted,

SMOLEN & ROYTMAN

/s/ Daniel E. Smolen

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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of June 2024, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants who have appeared in this case.

/s/Daniel E. Smolen